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| APPLICATION NO. | FILING DATE       | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |  |
|-----------------|-------------------|----------------------|-------------------------|------------------|--|
| 10/088,646      | 08/30/2002        | Joseph R. Lakowicz   | UNIMD 6                 | 7436             |  |
| 23599           | 7590 08/25/2006   |                      | EXAMINER                |                  |  |
| MILLEN, W       | HITE, ZELANO & BR | O SULLIVAN, PETER G  |                         |                  |  |
| SUITE 1400      | NDON DEVD.        | ART UNIT             | PAPER NUMBER            |                  |  |
| ARLINGTON       | , VA 22201        | 1621                 |                         |                  |  |
|                 |                   |                      | DATE MAILED, 00/05/2004 | ,                |  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |   | App  | lication No.   | Applicant(s)  |                     |  |  |  |  |
|--|---|--|--|---|---------------------|--|--|--|--|
| Office Action Summary  |   |  | 88,646   | LAKOWICZ  |                     |  |  |  |  |
|  |   |  | miner  | Art Unit  |                     |  |  |  |  |
|  |   | Pete   | r G. O'Sullivan  | 1621  |                     |  |  |  |  |
| Period fo  | The MAILING DATE of this communi<br>or Reply  | cation appears o   | on the cover sheet v   | with the correspondence a   | ddress              |  |  |  |  |
| WHIC<br>- Exter<br>after<br>- If NO<br>- Failu<br>Any  | ORTENED STATUTORY PERIOD FOR CHEVER IS LONGER, FROM THE M. asions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comm period for reply is specified above, the maximum state to reply within the set or extended period for reply reply received by the Office later than three months are departed term adjustment. See 37 CFR 1.704(b). | AILING DATE C<br>of 37 CFR 1.136(a). In<br>unication.<br>tutory period will apply<br>will, by statute, cause t | OF THIS COMMUN<br>no event, however, may a<br>and will expire SIX (6) MO<br>he application to become A | IICATION. A reply be timely filed  DNTHS from the mailing date of this ABANDONED (35 U.S.C. § 133). |                     |  |  |  |  |
| Status   |   |  |  |   |                     |  |  |  |  |
| 1)   | Responsive to communication(s) file   | d on   |  |   |                     |  |  |  |  |
| 2a) <u></u> □  | This action is <b>FINAL</b> . 2b) This action is non-final.   |  |  |   |                     |  |  |  |  |
| 3)□  | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is   |  |  |   |                     |  |  |  |  |
|  | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.   |  |  |   |                     |  |  |  |  |
| Dispositi  | on of Claims  |  |  |   |                     |  |  |  |  |
| 4)🖂  | 4)⊠ Claim(s) <u>1-17</u> is/are pending in the application.   |  |  |   |                     |  |  |  |  |
|  | 4a) Of the above claim(s) is/are withdrawn from consideration.  |  |  |   |                     |  |  |  |  |
| 5)   | Claim(s) is/are allowed.  |  |  |   |                     |  |  |  |  |
| 6)[  | · · · · · · · · · · · · · · · · · · ·   |  |  |   |                     |  |  |  |  |
| ·  | <u></u>   |  |  |   |                     |  |  |  |  |
| , 8) <u> </u>  | Claim(s) <u>1-17</u> are subject to restriction   | on and/or electio  | n requirement.   |   |                     |  |  |  |  |
| Applicati  | on Papers   |  |  |   |                     |  |  |  |  |
| ,  | The specification is objected to by the   |  | _  |   |                     |  |  |  |  |
| 10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.  |   |  |  |   |                     |  |  |  |  |
|  | Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).   |  |  |   |                     |  |  |  |  |
| Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. |   |  |  |   |                     |  |  |  |  |
| ,—   | •   | by the Examine   | er. Note the attache   | ed Office Action or form P  | 10-152.             |  |  |  |  |
| Priority u   | ınder 35 U.S.C. § 119   |  |  |   |                     |  |  |  |  |
|  | 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).   |  |  |   |                     |  |  |  |  |
| a)ı  | <ul> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> </ul>   |  |  |   |                     |  |  |  |  |
|  |   |  |  |   |                     |  |  |  |  |
|  | 3. Copies of the certified copies of the priority documents have been received in this National Stage   |  |  |   |                     |  |  |  |  |
|  | application from the International Bureau (PCT Rule 17.2(a)).   |  |  |   |                     |  |  |  |  |
| * See the attached detailed Office action for a list of the certified copies not received.   |   |  |  |   |                     |  |  |  |  |
|  |   |  |  |   |                     |  |  |  |  |
| Attachmen  | • •   |  |  |   |                     |  |  |  |  |
|  | e of References Cited (PTO-892)<br>e of Draftsperson's Patent Drawing Review (P   | TO-948)  |  | Summary (PTO-413)<br>o(s)/Mail Date   |                     |  |  |  |  |
| 3) 🔲 Inforr  | mation Disclosure Statement(s) (PTO-1449 or I   |  | 5) Notice of   | Informal Patent Application (PT   | <sup>-</sup> O-152) |  |  |  |  |
| Pape   | r No(s)/Mail Date   | 6) 🔲 Other:  | 6) Other:  |   |                     |  |  |  |  |

Application/Control Number: 10/088,646

Art Unit: 1621

Claims 1-17 are pending in this application. Upon further consideration, the following restriction requirement is made.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 2 and 4-17, drawn to luminophores wherein the donor and acceptor are covalently linked with a linking group and to methods of labeling compounds, identifying chemical species or providing a probe using such a luminophore.

Group II, claim(s) 1, 3-7, 13, 16 and 17, drawn to luminophores wherein the donor and acceptor are not covalently linked and to methods of providing a probe using such a luminophore.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: applicants' luminophores wherein the the donor and acceptor are covalently linked or not covalently linked are structurally disparate so that a reference anticipating one would not necessarily render the other obvious.

Applicants are further required to elect a single disclosed species, <u>i.e. a single</u> <u>disclosed luminophore</u>, for examination purposes..

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication should be directed to Peter G. O'Sullivan at telephone number (571)272-0642.

PETER O'SULLIVAN PRIMARY EXAMINER GROUP 1200